

UNITED STATES BANKRUPTCY COURT DISTRICT OF NEW JERSEY	
Robertson, Anschutz & Schneid, P.L. 6409 Congress Ave., Suite 100 Boca Raton, FL 33487 Telephone Number 561-241-6901 Attorneys For Secured Creditor Kevin Buttery, Esq. (KB-3800)	CASE NO.: 18-10180-VFP CHAPTER 13 Objection to Confirmation of Debtor's Chapter 13 Plan
In Re: Daryl L. Smith, Debtor.	

OBJECTION TO CONFIRMATION OF DEBTOR'S CHAPTER 13 PLAN

DEUTSCHE BANK TRUST COMPANY AMERICAS, AS TRUSTEE FOR RESIDENTIAL ACCREDIT LOANS, INC., MORTGAGE ASSET-BACKED PASS-THROUGH CERTIFICATES, SERIES 2007-QS3 ("Secured Creditor"), by and through its undersigned counsel, objects to confirmation of Debtor's Chapter 13 Plan (DE # 10), and states as follows:

1. Debtor, Daryl L. Smith, ("Debtor"), filed a voluntary petition pursuant to Chapter 13 of the Bankruptcy Code on January 4, 2018.
2. Secured Creditor holds a security interest in the Debtor's real property located at 92 Roland Ave., South Orange, NJ 07079, by virtue of a Mortgage recorded on January 19, 2007 in Book 12021, at Page 616 of the Public Records of Essex County, NJ. Said Mortgage secures a Note in the amount of \$359,000.00.
3. The Debtor filed a Chapter 13 Plan on January 18, 2018.
4. The Plan fails to mention the total amount of arrears owed. It is anticipated that Secured Creditor's claim will show the pre-petition arrearage due Secured Creditor is \$168,174.43. Therefore, the Plan is not in compliance with the requirements of 11 U.S.C. §§ 1322(b)(3) and 1325(a)(5) and cannot be confirmed. Secured Creditor objects to any plan which proposes to pay it anything less than \$168,174.43 as the pre-petition arrearage over the life of the plan.

5. Secured Creditor objects to Debtor's intent to enter into a loan modification as the borrower is ineligible for a loan modification. The property was sold at a Sheriff's sale on August 29, 2017.
6. Debtor's previous bankruptcy, case number 17-28296-VFP, was filed within the ten (10) day redemption period pursuant to 11 U.S.C. § 108. However, due to Debtor's inability to successfully complete the bankruptcy or tender the redemption amount the sixty (60) day extension provided by 11 U.S.C. § 108 lapsed.
7. Debtor failed to redeem the property within sixty (60) days of the filing date of the initial bankruptcy and the filing of the present bankruptcy is outside of the redemption period.
8. By failing to fully redeem within that time period Debtor forfeited the right to redeem and therefore no longer holds a legal title to the property and by virtue is ineligible to proceed with any loss mitigation avenues.

WHEREFORE, Secured Creditor respectfully requests this Court sustain the objections stated herein and deny confirmation of Debtor's Plan, and for such other and further relief as the Court may deem just and proper.

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CERTIFICATION OF SERVICE

1. I, Kevin Buttery, represent DEUTSCHE BANK TRUST COMPANY AMERICAS, AS TRUSTEE FOR RESIDENTIAL ACCREDIT LOANS, INC., MORTGAGE ASSET-BACKED PASS-THROUGH CERTIFICATES, SERIES 2007-QS3 in this matter.
2. On 2/14/2018, I caused a copy of the following pleadings and/or documents to be sent to the parties listed in the chart below: Objection to Confirmation of Debtor's Chapter 13 Plan.
3. I certify under penalty of perjury that the above documents were sent using the mode of service indicated.

2/14/2018

Robertson, Anschutz & Schneid, P.L.
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Boca Raton, FL 33487
Telephone Number <<Special.FirmPhone>

By: /s/Kevin Buttery
Kevin Buttery, Esquire
NJ Bar Number KB-3800
Email: kbuttery@rascrane.com

<u>Name and Address of Party Served</u>	<u>Relationship of Party to the Case</u>	<u>Mode of Service</u>
Robert C. Nisenson Robert C. Nisenson, LLC 10 Auer Court, Suite E East Brunswick, NJ 08816	Attorney for Debtor	<input type="checkbox"/> Hand-delivered <input checked="" type="checkbox"/> Regular mail <input type="checkbox"/> Certified Mail/RR <input type="checkbox"/> E-mail <input checked="" type="checkbox"/> Notice of Electronic Filing (NEF) <input type="checkbox"/> Other (as authorized by the court*)
Daryl L. Smith 92A Roland Avenue South Orange, NJ 07079	Debtor	<input type="checkbox"/> Hand-delivered <input checked="" type="checkbox"/> Regular mail <input type="checkbox"/> Certified Mail/RR <input type="checkbox"/> E-mail <input type="checkbox"/> Notice of Electronic Filing (NEF) <input type="checkbox"/> Other (as authorized by the court*)
Marie-Ann Greenberg 30 Two Bridges Rd. Suite 330 Fairfield, NJ 07004	Chapter 13 Standing Trustee	<input type="checkbox"/> Hand-delivered <input checked="" type="checkbox"/> Regular mail <input type="checkbox"/> Certified Mail/RR <input type="checkbox"/> E-mail <input checked="" type="checkbox"/> Notice of Electronic Filing (NEF) <input type="checkbox"/> Other (as authorized by the court*)
U.S. Trustee Office of the U.S. Trustee One Newark Center Ste 2100 Newark, NJ 07102	U.S. Trustee	<input type="checkbox"/> Hand-delivered <input checked="" type="checkbox"/> Regular mail <input type="checkbox"/> Certified Mail/RR <input type="checkbox"/> E-mail <input checked="" type="checkbox"/> Notice of Electronic Filing (NEF) <input type="checkbox"/> Other (as authorized by the court*)